

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**March 31, 2015**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2014AP1187**

**Cir. Ct. No. 2011CV1405**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT I**

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**PATRICIA LASCELLE,**

**PLAINTIFF-RESPONDENT,**

**v.**

**STATE FARM AUTOMOBILE INSURANCE,**

**DEFENDANT-APPELLANT,**

**ABC INSURANCE COMPANY,**

**DEFENDANT.**

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APPEAL from a judgment and an order of the circuit court for Milwaukee County: CHRISTOPHER R. FOLEY, Judge. *Affirmed.*

Before Curley, P.J., Brennan, J., and Thomas Cane, Reserve Judge.

¶1 PER CURIAM. Appellant State Farm Mutual Automobile Insurance Company appeals an order and a judgment in favor of its insured,

Patricia Lascelle, for \$230,000 plus costs. The issues are: (1) whether Lascelle is “legally entitled to recover” damages, within the meaning of WIS. STAT. § 632.32(2)(d) (2009-10),<sup>1</sup> beyond the statutory liability cap of \$250,000; and (2) whether the exclusion in State Farm’s policy for government-owned vehicles is void under WIS. STAT. § 632.32. We affirm.

¶2 Lascelle was struck by a bus owned by Milwaukee Transport, a governmental agency, and driven by its employee, Jerome Tally. Lascelle settled her claim against Milwaukee Transport and its liability insurer for \$250,000, the maximum allowed by statute. *See* WIS. STAT. § 345.05(3). Lascelle sought underinsured motorist (UIM) benefits from State Farm under her motor vehicle insurance policies. State Farm moved for summary judgment, arguing that its policies did not provide UIM benefits to Lascelle because she was not “legally entitled to recover” more than the statutory cap of \$250,000. The circuit court denied State Farm’s summary judgment motion, ruling that Lascelle was entitled to UIM benefits for her damages above the \$250,000 maximum she could recover from the governmental agency by statute. The parties then stipulated that Lascelle sustained \$510,000 in damages, that she had received \$250,000 from Milwaukee Transport, and that she had received \$30,000 in medical benefits from State Farm. The circuit court entered judgment against State Farm for \$230,000 plus costs, the difference between Lascelle’s stipulated loss and what she had recovered.

¶3 Resolution of this case is controlled by *State Farm v. Hunt*, 2014 WI App 115, 358 Wis. 2d 379, 856 N.W. 2d 633, which is directly on point. In

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2009-10 version unless otherwise noted because the policy at issue is based on the 2009-10 version of WIS. STAT. § 632.32.

*Hunt*, we held that an insured is “legally entitled to recover” damages, as that phrase is used in WIS. STAT. § 632.32(2)(d), “where he or she can demonstrate a claim for damages against a tortfeasor for which the insured is not fully compensated, despite the fact that all of these damages are not recoverable due to the statutory cap.” *Hunt*, 358 Wis. 2d 379, ¶37. We also concluded that an exclusion for government-owned vehicles in a motor vehicle insurance policy is void under § 632.32(4). *Hunt*, 358 Wis. 2d 379, ¶42. Because *Hunt* resolves the issues presented by State Farm on appeal, we affirm the circuit court’s order and judgment for the reasons explained in *Hunt*.

*By the Court.*—Judgment and order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5. (2013-14).

